

REMARKS

With this Preliminary Amendment, an amendment to section "Related U.S. Application Data" of the Specification is added, claims 9-18, 20, 21 and 47-55 are cancelled without prejudice, and claims 56-72 are added. Claims 9-18, 20, 21 and 47-55 are being prosecuted in U.S. Patent Appl. Ser. No. 10/033,805. Claims 1, 2, 7, 8, 22, 30, 34 and 37 were previously cancelled without prejudice, and claims 3-6, 23-29, 32, 33, 35, 36 and 38-46 were previously withdrawn in the prosecution history of U.S. Patent Appl. Ser. No. 10/033,805

New claims 56-72 are presented by Applicants for consideration. Applicants respectfully submit that none of the cited prior art, alone or in combination, disclose, teach or suggest the elements and limitations of independent claims 56 or 61. Additionally, none of the cited prior art discloses, teaches or suggests the additional limitations of dependent claims 57-60-51 or 62-72, which depend from claims 55 and 61, respectively.

In particular, Moore et al. (U.S. Patent No. 3,876,204), alone or in combination with the other cited prior art, does not teach, suggest or disclose the limitations of either independent claim 56 or independent claim 61. Specifically, regarding claim 56, Moore et al. does not disclose, teach or suggest a bat including a substantially tubular body and at least one sheet having a proximal edge, a distal edge, and first and second side edges, wherein the at least one sheet contacts at least a portion of, and extends around the inner peripheral surface such that the first and second edges each extend from the proximal edge to the distal edge along a path that is substantially non-parallel with the longitudinal axis. Further, Moore et al. also does not teach, suggest or disclose a bat having at one sheet configured to be capable of moving independently with respect to the body during use, wherein the at least one sheet is formed of a metal, a metal matrix composite material, a fiberglass composite material, a urethane or a combination thereof.

In contrast, Moore et al. discloses a ball bat including a metal body with a barrel portion and a tubular paperboard dampening element attached to an interior surface of

the barrel portion. The tubular paperboard dampening element is formed of one or more plies of paperboard which is(are) spirally, convolutedly, wound having a single assembled length. In one embodiment of Moore et al., the paperboard dampening element includes a generally uniform paperboard core member secured within a corrugated paperboard member. Accordingly, it is respectfully submitted that Moore et al. does not teach, suggest or disclose the bat of claim 56.

Moore et al. also does not teach, suggest or disclose the insert of claim 61. In particular, Moore et al. does not teach, suggest or disclose an insert including a plurality of reinforcing layers wherein each layer has a proximal edge, a distal edge, and first and second side edges, wherein the first and second edges of each layer extend from the proximal edge to the distal edge along a path that is substantially non-parallel with the longitudinal axis, and wherein the layers are formed of a non-wood based material. In contrast, as discussed above, Moore et al. discloses a tubular paperboard dampening element attached to an interior surface of a bat. The tubular paperboard dampening element is formed of one or more plies of paperboard which is(are) spirally, convolutedly, wound having a single assembled length. Accordingly, it is respectfully submitted that Moore et al. does not teach, suggest or disclose the game ball of claim 61.

The Examiner is invited to telephone the undersigned at (773) 714-6498 to discuss any issues in this case in order to advance the prosecution thereof.

Respectfully submitted,

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